

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DAVID TROUPE,

Plaintiff,

v.

KATRINA SUCKOW, ET AL.,

Defendants.

No. 13-CV-5038-EFS

**ORDER DENYING PLAINTIFF'S MOTION
TO CLARIFY, MOTION TO APPOINT
COUNSEL, MOTION FOR TRO
EMERGENCY, MOTION TO COMPEL WSP
AGAIN**

Before the Court are Plaintiff David Troupe's Motion to Clarify, ECF No. 155, Motion to Appoint Counsel, ECF No. 156, Motion for TRO Emergency, ECF No. 157, and Motion to Compel WSP Again, ECF No. 161.

I. Motion to Clarify, ECF No. 155

Plaintiff asks the Court to clarify the rules of discovery. In particular, Plaintiff asks the Court how many interrogatories he is allowed to serve on the Defendants. The Court has already explained the rules regarding interrogatories to the Plaintiff in a prior order. See ECF No. 100 at 2. The Court will not go through all of the rules again. It is sufficient to point out that the Court's scheduling order set an April 17, 2015 discovery deadline. ECF No. 63. Discovery was completed in this case months ago. As such, the Court denies

1 Plaintiff's Motion to Clarify as moot. Plaintiff is not entitled to
2 any more interrogatories in this case.

3 **II. Motion to Appoint Counsel, ECF No. 156**

4 Plaintiff asks the Court to appoint counsel for him now that his
5 claim has survived summary judgment. ECF No. 156. Pursuant to 28
6 U.S.C. 1915(e)(1), a court may appoint counsel for a litigant in a
7 civil case. However, a court may only do so under "exceptional
8 circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.
9 1991) (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
10 1986)). In determining whether exceptional circumstances exist, a
11 court evaluates "both the likelihood of success on the merits and the
12 ability of the petitioner to articulate his claims *pro se* in light of
13 the complexity of the legal issues involved." *Id.* Here, the Court
14 finds that no "exceptional circumstances" exist which would warrant
15 the appointment of counsel. Therefore, Plaintiff's Motion to Appoint
16 Counsel is denied.

17 **III. Motion for TRO Emergency, ECF No. 157**

18 Plaintiff claims that after the Court denied in part Defendants'
19 Motion for Summary Judgment, a number of corrections officers at the
20 Washington State Penitentiary have threatened to kill him, provided
21 him with sharp weapons, removed his legal materials from his cell, and
22 have not properly handled his electronic case filings. ECF No. 157. He
23 requests that the Court order various individuals at the penitentiary
24 to stop engaging in this sort of activity. In particular, Plaintiff
25 asks the Court to order the Department of Corrections to "find another
26 facility to house Troupe with his property within seven days." *Id.*

1 On October 23, 2015, the Court received a notice from Mr. Troupe
2 indicating that he was scheduled to be moved to a different facility.
3 ECF No. 165. He is to be moved to a facility in Shelton, Washington.
4 *Id.* As a result, he will no longer be in contact with any of the
5 officers. Therefore, Plaintiff's Motion for TRO Emergency is denied as
6 moot. However, The Court has previously indicated that it would not
7 let a transfer to a different facility interfere with Plaintiff's
8 ability to prosecute this matter. The Court will monitor the transfer
9 and make sure that Plaintiff is not prejudiced as a result.

10 **IV. Motion to Compel WSP Again, ECF No. 161**

11 Finally, Plaintiff again asks the Court to compel the Washington
12 State Penitentiary to fix its legal phones. ECF No. 161. This is the
13 same motion that Plaintiff filed in another case. *See Troupe v.*
14 *Brodhead*, 13-CV-5028-EFS. As stated in that case, the Court will not
15 hear motions that do not pertain to the issues of the case. *See Troupe*
16 *v. Brodhead*, 13-CV-5028-EFS, ECF No. 248. This case is not about the
17 phones at the penitentiary. The Court will only intervene if the
18 phones interfere with Plaintiff's ability to litigate *this case*.
19 Therefore, the Court denies Plaintiff's Motion to Compel WSP Again, as
20 irrelevant.

21 Accordingly, **IT IS HEREBY ORDERED:**

22 1. Plaintiff's Motion to Clarify, **ECF No. 155**, is **DENIED** as moot.

23 2. Plaintiff's Motion to Appoint Counsel, **ECF No. 156**, is **DENIED**.

24 3. Plaintiff's Motion for TRO Emergency, **ECF No. 157**, is **DENIED** as
25 moot.

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1 **4.** Plaintiff's Motion to Compel WSP Again, **ECF No. 161**, is **DENIED**.

2 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
3 Order and provide copies to counsel and Mr. Troupe.

4 **DATED** this 2nd day of November 2015.

5
6 s/Edward F. Shea

 EDWARD F. SHEA
7 Senior United States District Judge
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